

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

KARA SINGLETON ADAMS,

Defendant.

CIVIL ACTION NO.

1:10-CR-0006-1-CAP-JFK

ORDER

This matter is before the court on Kara Singleton Adams's motion for a new trial [Doc. No. 424]. Adams seeks a new trial based upon newly discovered evidence pursuant to Fed. Rule Crim. P. 33(b)(1). The relevant code section states the following:

Any motion for a new trial grounded on newly discovered evidence must be filed within 3 years after the verdict or finding of guilty. If an appeal is pending, the court may not grant a motion for a new trial until the appellate court remands the case.

Fed. Rule Crim. P. 33(b)(1). On February 22, 2012, Adams filed a notice of appeal of the conviction and sentence imposed by the court [Doc. No. 392].

On March 2, 2012, the court received an acknowledgment of receipt of the notice of appeal by the Eleventh Circuit Court of Appeals [Doc. No. 396].

Although not notified by the parties, the court recently learned of an order by

the Eleventh Circuit Court of Appeals staying briefing of the appeal pending a ruling on the motion for a new trial by the U.S. District Court.

The Eleventh Circuit Court of Appeals has held the following in regards to motions for a new trial based on newly discovered evidence:

“A motion for a new trial may be presented directly to the district court while the appeal is pending; that court may not grant the motion but may deny it, or it may advise [the court of appeals] that it would be disposed to grant the motion if the case were remanded.”

United States v. Hogan, 181 F. App’x 803, 804 (11th Cir. 2006) (quoting *United States v. Fuentes-Lozano*, 580 F.2d 724, 726 (5th Cir. 1978)). The court will endeavor to rule on the motion for a new trial in accordance with Fed. Rule Crim. P. 33(b)(1) and Eleventh Circuit case law. The court DIRECTS the parties to file any additional briefs with the court within twenty days of the date of this order.

SO ORDERED this 16th day of August, 2013.

/s/ Charles A. Pannell, Jr.
CHARLES A. PANNELL, JR.
United States District Judge